S.B. Civil Revision Petition No.92/06
Suman Vs. Rohitash & Ors.

Date of Order : 07/08/2006

Hon'ble Mr. Justice Ajay Rastogi

Mr. Rahul Tiwari, for petitioner

Instant revision petition has been filed by the petitioner-defendant against the order dated 15th July, 2006 whereby her application filed under O.7 R.11 CPC was rejected by the learned trial Judge.

Respondent-plaintiffs filed a suit for cancellation of sale deed which has been executed in favour of the present petitioner. After service of the plaint, the petitioner filed application under O.7 R.11 CPC raising objection that the sale deed was earlier executed in favour of Hem Raj and so also in favour of G.C. Gupta. As a consequence thereof, the very cancellation of sale deed which has been questioned in the present suit by the respondent-plaintiffs is not maintainable and it will not give any cause of action for filing of the suit against the present petitioner.

Learned trial Judge after taking note of the objection raised by the petitioner rejected her application under order impugned and observed that the objection can be decided only after the suit is tried and not at the preliminary stage.

Counsel for petitioner submits that the respondent-plaintiffs have prayed for cancellation of sale deed only against the execution in favour of present petitioner gives cause of action of limitation for filing of suit and this indirect method has been adopted in questioning the sale deed executed in her favour.

In my opinion, the submission made by the counsel is the instant matter can be examined only after adjudication of the dispute.

I do not find any error in the order passed by the learned trial Judge dated 15th June, 2006.

Consequently, the revision petition fails and is hereby dismissed.

[Ajay Rastogi],J.

FRB